

ESTTA Tracking number: **ESTTA103557**

Filing date: **10/10/2006**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92043516
Party	Defendant Stich, Willi Lorenz Stich, Willi Lorenz 950 Jennings Street Bethlehem, PA 18017
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Submission	Reply in Support of Motion
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Date	10/10/2006
Attachments	respObjTimely.101006.pdf ( 4 pages )(113672 bytes )



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## II.

### **Wajcman's Own Papers Fail To Comply With 37 CFR 2.126 Because They Are Not All Double-Spaced.**

Bill Lawrence objects to the filing of Petitioners Objection to Untimely Reply Papers Filed By Respondent Willi Lorenz Stich on September 6, 2006 because it does not conform to 37 CFR 2.126, Form of Submissions to the Trademark Trial and Appeal Board which requires:

(1) A paper submission must be printed in at least 11-point type and double-spaced, with text on one side only of each sheet;

Wajcman's papers submitted on September 14, 2006 are not double-spaced.

## III.

### **There Is No Substance to Wajcman's Objections Because Bill Lawrence's Papers Were Served Within the Applicable Time Limits.**

Furthermore, there is no substance to Wajcman's arguments. **37 CFR § 2.119 Service and signing of papers** provides:

(c) When service is made by first-class mail, "Express Mail," or overnight courier, the date of mailing or of delivery to the overnight courier will be considered the date of service. Whenever a party is required to take some action within a prescribed period after the service of a paper upon the party by another party and the paper is served by first-class mail, "Express Mail," or overnight courier, 5 days shall be added to the prescribed period.

**113.05 Additional Time for Taking Action After Service by Mail** provides:

Whenever a party to an inter partes proceeding before the Board is required to take some action within a prescribed period of time after the service of a paper upon that party by another party to the proceeding, and the paper is served by first-class mail, "Express Mail," or overnight courier, the time for taking action is enlarged by 5 days.

See 37 CFR § 2.119(c).

Mr. Kopelowitz failed to add five days in his calculations, as he must have known was required because he did not personally serve any papers.

1 Upon adding five (5) days as required by law to the due dates for the reply and opposition  
2 papers, all such papers were properly and timely served on September 6, 2006 and September 22,  
3 2006 respectively.

4 Bill Lawrence's reply brief meets the 10 page limitation when the caption, prayer, and  
5 certificate of service are excluded. The substantive part of the reply brief is within the 10 page  
6 limit.

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8 **IV.**

9 **Bill Lawrence Will Respond to Wajcman's Substantive Allegation That Bill**  
10 **Lawrence Is A "Non-Existent, Fictitious Person Who Is Not A Party To These**  
11 **Proceedings."**

12 Wajcman also refers to Bill Lawrence as a fictitious person. "PLEASE TAKE  
13 FURTHER NOTICE that petitioner Jzchak Wajcman also respectfully objects to item 4 above  
14 because it is a declaration signed by a non-existent, fictitious person who is not a party to these  
15 proceedings." Objection's To Untimely Summary Judgment Opposition Papers Filed By  
16 Respondent Willi Lorenz Stich On September 22, 2006, p.2.

17 Wajcman, through his attorney, is essentially making a substantive argument that goes to  
18 the legal issues involved in the pending motions for summary judgment. Bill Lawrence will  
19 respond substantively at an appropriate time by introducing evidence that "Bill Lawrence" is a  
20 live, living person and refers to the Respondent. Nonetheless, Bill Lawrence objects to  
21 Wajcman's statement because it is unsupported and Wajcman is not an expert on Bill Lawrence.

22 Dated: October 10, 2006

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Gregory Richardson, Esq.  
25 Attorney for Respondent,  
Bill Lawrence

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of Respondent's

**REBUTTAL TO PETITIONER'S OBJECTIONS TO REPLY PAPERS AND  
OPPOSITION PAPERS RE MOTIONS FOR SUMMARY JUDGMENT**

was served on the following attorney of record for Petitioner, by depositing  
same with the United States Postal Service on this 10<sup>th</sup> Day of October, 2006,  
addressed as follows:

Jay S. Kopelowitz  
Kopelowitz & Associates  
12702 Via Cortina, Suite 700  
Del Mar, California 92014

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Gregory Richardson